

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
NORTHERN DIVISION

CHRISTAIN TREVOR MIMS #847474,
Plaintiff,

v.

Case No. 2:21-cv-250

UNKNOWN BENSON,
Defendant.

HONORABLE PAUL L. MALONEY

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ORDER ADOPTING REPORT AND RECOMMENDATION

This is a prisoner civil rights action filed pursuant to 42 U.S.C. § 1983. Defendant filed a motion for summary judgment. The matter was referred to the Magistrate Judge, who issued a Report and Recommendation on March 17, 2023, recommending that this Court grant the motion and enter judgment in favor of Defendant. The Report and Recommendation mailed to the Plaintiff was returned to the Court marked “return to sender” and “paroled/discharged”.

Even though the Plaintiff has not received a copy of the Report and Recommendation, Plaintiff has been properly served under the Federal Rules of Civil Procedure. As required by statute, the magistrate judge filed the Report and Recommendation with the Court and mailed a copy to the Plaintiff at his last known address. *See* 28 U.S.C. § 636(b)(1)(C) (“the magistrate judge shall file his proposed findings and recommendations under subparagraph (B) with the court and a copy shall forthwith be mailed to all parties.”). Upon placing the Report and Recommendation in the mail to the Plaintiff’s last known address, service was complete. Fed. R. Civ. P. 5(b)(2)(C). Plaintiff has a continuing obligation to apprise the Court of his current address. *See* W.D. Mich. L.Civ.R. 41.1 (“Failure of a plaintiff to keep the Court apprised of his current address shall be

grounds for dismissal for want of prosecution.”); *see also White v. City of Grand Rapids*, 34 F. App’x 210, 211 (6th Cir. 2022) (affirming the dismissal of a lawsuit that occurred in part because the plaintiff “failed to keep the district court apprised of his current address”).

After being served with a Report and Recommendation issued by a Magistrate Judge, a party has fourteen days to file written objections to the proposed findings and recommendations. 28 U.S.C. § 636(b)(1)(C); Fed. R. Civ. P. 72(b); *see United States v. Sullivan*, 431 F.3d 976, 984 (6th Cir. 2005). Failure to file an objection results in a waiver of the issue and the issue cannot be appealed. *Id.*; *see Thomas v. Arn*, 474 U.S. 140, 155 (1985) (upholding the Sixth Circuit's practice). No objections have been filed to date.

Although the Plaintiff's failure to file objections is a sufficient reason to adopt the Report and Recommendation, this Court has reviewed the merits of the report and finds the magistrate judge's reasoning and conclusions sound. Therefore,

IT IS HEREBY ORDERED that the Report and Recommendation (ECF No. 26) is APPROVED and ADOPTED as the Opinion of the Court.

IT IS FURTHER ORDERED that the Motion for Summary Judgment (ECF No. 22) is GRANTED.

IT IS FURTHER ORDERED that this Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that an appeal of this decision would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601, 610-11 (6th Cir. 1997), overruled on other grounds by *Jones v. Bock*, 549 U.S. 199, 206, 211-12 (2007).

A Judgment will be entered consistent with this Order.

Dated: April 6, 2023

/s/ Paul L. Maloney
Paul L. Maloney
United States District Judge